



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ನಂಜ Volume 148	ಬೆಂಗಳೂರು, ಸುರುವಾರ, ಜುಲೈ 4, 2013 (ಅಷಾಧ ನಿಂ, ಶಕ ವರ್ಷ 1935) Bangalore, Thursday, July 4, 2013 (Ashadha 13, Shaka Varsha 1935)	ಸಂಚಿಕೆ ೨೨ Issue 27
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ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅಪ್ರಾಧಿಕ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬಧ್ಯ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬಧ್ಯ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಮನುಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಕೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂಪೂರ್ಣಾಂಶ 12 ಕೇಂದ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 16/21ನೇ ಮೇ, 2013.

2013ನೇ ಸಾಲಿನ 04–01–2013ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಂಡೆನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Unlawful Activities (Prevention) (Amendment) Act, 2012 (No. 03 of 2013) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

The following Act of Parliament received the assent of the President on the 03rd January, 2013, and is hereby published for general information :-

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2012

(No. 3 of 2013)

[3rd January, 2013]

An Act further to amend the Unlawful Activities (Prevention) Act, 1967.

Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint :

2. Amendment of section 2.—In section 2 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the principal Act),—

(i) clause (ea) shall be renumbered as clause (eb) and before clause (eb) as so renumbered, the following clause shall be inserted, namely:—

‘(ea) “economic security” includes financial, monetary and fiscal stability, security of means of production and distribution, food security livelihood security, energy security, ecological and environmental security ;’;

(ii) after clause (eb) as so renumbered, the following clause shall be inserted, namely:—

(೨೬೩)

(ec) "person" includes-

- (i) an individual,
- (ii) a company,
- (iii) a firm,
- (iv) an organisation or an association of persons or a body of individuals, whether incorporated or not,
- (v) Every artificial juridical person, not falling within any of the preceding sub-clauses, and
- (vi) Any agency, office or branch owned or controlled by any person falling within any of the proceeding sub-clauses ;;

(iii) for clause (g), the following clause shall be substituted, namely :-

(g) "proceeds of terrorism" means,-

(i) all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found ; or

(ii) Any property which is being used, or is intended to be used, for a terrorist act or for the purpose of an individual terrorist or a terrorist gang or a terrorist organisation.

Explanation.-For the purposes of this Act, it is hereby declared that the expression "proceeds of terrorism" includes any property intended to be used for terrorism;

(iv) in clause (h), for the words 'instruments in any form including', the words "instruments in any form including but not limited to" shall be substituted.

3. Amendment of section 6.-In section 6 of the principal Act, in sub-section (l), for the words "two years", the words "five years" shall be substituted.

4. Amendment of section 15.-Section 15 of the principal Act shall be renumbered as sub-section (l) thereof and in sub-section (l) as so renumbered,-

(i) in the opening portion, after the word "security", the words, "economic security," shall be inserted ;

(ii) in clause (a), after sub-clause (iii), the following sub-clause shall be inserted, namely :-

"(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material ; or":

(iii) in clause (c), for the words "any other person to do or abstain from doing any act,", the words "an international or inter-governmental organisation or any other person to do or abstain from doing any act ; or" shall be substituted :

(iv) For the Explanation, the following Explanation shall be substituted, namely :-

Explanation.-For the purpose of this sub-section,-

(a) "public functionary" means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary ;

(b) "high quality counterfeit Indian currency" means the counterfeit currency as may be declared after examination by an authorized or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule .';

(v) after sub-section (l), the following sub-section shall be inserted, namely :-

"(2) The terrorist act includes an act which constitutes an offence within the scope of, and as defined in any of the treaties specified in the Second Schedule.",

5. Omission of section 16A-Section 16A of the principal Act shall be omitted.

6. Substitution of new section for section 17.- For section 17 of the principal Act, the following section shall be substituted, namely :-

Punishment for raising funds for terrorist act.-17. Whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act, notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Explanation.-For the purpose of this section,-

- (a) participating, organising or directing in any of the acts stated therein shall constitute an offence;
- (b) raising funds shall include raising or collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency; and
- (c) raising or collecting or providing funds, in any manner for the benefit of, or, to an individual terrorist, terrorist gang or terrorist organisation for the purpose not specifically covered under section 15 shall also be construed as an offence.”.

7. Insertion of new sections 22A, 22B and 22C.- After section 22 of the principal Act, the following sections shall be inserted, namely :-

Offences by companies.-‘22A. (1) Where an offence under this Act has been committed by a company, every person (including promoters of the company) who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person (including promoters) liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised reasonable care to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any promoter, director, manager, secretary or other officer of the company, such promoter, director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

1. “company” means any corporate and includes a firm or other association of individual ; and
- (b) “director” in relation to a firm, means a partner in the firm.

Offences by societies or trusts.-‘22B. (1) Where an offence under this Act has been committed by a society or trust, every person (including the promoter of society or settler of the trust) who at the time the offence was committed was in charge of, and was responsible to, the society or trust for the conduct of the business of the society or the trust, as well as the society or trust, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised reasonable care to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to. Any neglect on the part of any promoter, director, manager secretary, trustee or other officer of the society or trust, such promoter, director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purpose of this section,-

- (a) “society” means any body corporate registered under the Societies Registration Act, 1860 (21 of 1860) or any other State Act governing the registration of societies :
- (b) “trust” means any body registered under the Indian Trusts Act, 1882 (2 of 1882) or any other State Act governing the registration of trusts :
- (c) “director”, in relation to a society or trust, means a member of its governing board other than an ex-officio member representing the interests of the Central or State Government or the appropriate statutory authority.

Punishment for offences by companies, societies or trusts.-22C. Where any offence under the Act has been committed by a company or a society or a trust, as the case may be, every person (including promoter of company or trust or settlor of the trust) who at the time of the offence was either in charge or responsible for the conduct of the business shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable with fine which shall not be less than five crore rupees and which may extend to ten crore rupees.’.

8. Amendment of section 23.-In section 23 of the principal Act, in sub-section (1), for the words "chemical substance of warfare, he shall", the words "chemical substance of warfare or high quality counterfeit Indian currency, he shall" shall be substituted.

9. Amendment of heading of Chapter V.-In CHAPTER V of the principal Act, in the heading thereof, after the word 'TERRORISM', the words "OR ANY PROPERTY INTENDED TO BE USED FOR TERRORISM" shall be inserted.

10. Substitution of new sections for section 24.-For section 24 of the principal Act, the following sections shall be substituted, namely :-

Reference to proceeds of terrorism to include any property intended to be used for terrorism..-24. In this Chapter, unless the context otherwise requires, all references to "proceeds of terrorism" shall include any property intended to be used for terrorism.

Forfeiture of proceeds of terrorism.-24A. (1) No person shall hold or be in possession of any proceeds of terrorism.

(2) Proceeds of terrorism, whether held by a terrorist organisation or terrorist gang or by any other person and whether or not such terrorist or other person is prosecuted or convicted for any offence under Chapter IV or Chapter VI, shall be liable to be forfeited to the Central Government or the State Government, as the case may be, in the manner provided under this Chapter.

(3) Where proceedings have been commenced under this section, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to, or, the value of the proceeds of terrorism involved in the offence.

11. Amendment of section 33.-In section 33 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely :-

"(3) Where any person is accused of an offence concerning high quality counterfeit Indian currency, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to the value of such high quality counterfeit Indian currency involved in the offence including the face value of such currency which are not defined to be of high quality, but are part of the common seizure along with the high quality counterfeit Indian currency.

(4) Where a person is accused of an offence punishable under Chapter IV or Chapter VI, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to or the value of the proceeds of terrorism involved in the offence.

(5) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the property, movable or immovable or both, belonging to him shall, where the trial under the Act cannot be concluded on account of the death of the accused or being declared a proclaimed offender or for any other reason, be confiscated on the basis of material evidence produced before the court."

12. Amendment of section 35.- In section 35 of the principal Act,-

(a) in sub-section (1).-

- (i) for the word "order", the word "notification" shall be substituted ;
- (ii) for the word "Schedule", wherever it occurs, the words "First Schedule" shall be substituted ;

(b) after sub-section (3), the following sub-sections shall be inserted, namely :-

"(4) The Central Government, by notification in the Official Gazette, add to or remove or amend the Second Schedule or Third Schedule and thereupon the Second Schedule or the Third Schedule, as the case may be, shall be deemed to have been amended accordingly.

(5) Every notification issued under sub-section (1) or sub-section (4) shall, as soon as may be after it is issued, be laid before Parliament".

13. Amendment of Section 40.-In section 40 of the principal Act, in sub-section (1), for Explanation, the following Explanation shall be substituted, namely :-

"Explanation.-For the purposes of this sub-section, a reference to provide money or other property includes.-

- (a) of its being given, lent or otherwise made available, whether or not for consideration ; or
- (b) raising, collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency".

14. Amendment of Schedule.-In the principal Act, the existing Schedule shall be renumbered as the First Schedule thereof, and after the First Schedule as so renumbered, the following Schedules shall be inserted namely :-

“THE SECOND SCHEDULE

[See section 15(2)]

- (i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970) ;
- (ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971) ;
- (iii) Convention on the Prevention and punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973) ;
- (iv) International Convention against the Taking of Hostages (1979) :
- (v) Convention on the Physical Protection of Nuclear Material (1980) ;
- (vi) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988) :
- (vii) Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation (1988) ;
- (viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988) ; and
- (ix) International Convention for the Suppression of Terrorist Bombings (1997) .

THE THIRD SCHEDULE

[See clause (b) of Explanation to section 15 (1)]

Security features to define high quality counterfeit Indian currency notes

- (a) Water mark :
- (b) Latent image ; and
- (c) See through registration in the currency notes.”

P. K. MALHOTRA,

Secy. to the Govt. of India

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಆಂಜನಿ,

ಸಹಾಯಕ ಪ್ರಾರ್ಥಿಕರ ಮತ್ತು ಪದನಿರ್ಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 40

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಕೊಳಣ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾತ 8 ಕೇಂದ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 16/21ನೇ ಮೇ, 2013.

2012ನೇ ಸಾಲಿನ 14-09-2012ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಂಟೆನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ (1)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The National Institute of Mental Health and Neuro-Sciences, Bangalore Act, 2012 (No. 38 of 2012) ಅನ್ನ ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

The following Act of Parliament received the assent of the President on the 13th September, 2012, and is hereby published for general information:—

THE NATIONAL INSTITUTE OF MENTAL HEALTH AND NEURO-SCIENCES, BANGALORE ACT, 2012

(No. 38 OF 2012)

[13th September, 2012]

An Act to declare the institution known as the National Institute of Mental Health and Neuro-Sciences, Bangalore, to be an institution of national importance and to provide for its incorporation and for matters connected therewith.

Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:-

1. Short title and commencement.— (1) This Act may be called the National Institute of Mental Health and Neuro-Sciences, Bangalore Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Declaration of National Institute of Mental Health and Neuro-Sciences, Bangalore, as an institution of national importance.— Whereas the objects of the National Institute of Mental Health and Neuro-Sciences, Bangalore are such as to make the institution one of national importance, it is hereby declared that the National Institute of Mental Health and Neuro-Sciences, Bangalore is an institution of national importance.

3. Definitions.— In this Act, unless the context otherwise requires,—

- (a) "Fund" means the Fund of the Institute referred to in section 17;
- (b) "Governing Body" means the Governing Body of the Institute;
- (c) "Institute" means the institution known as the National Institute of Mental Health and Neuro-Sciences, Bangalore, incorporated under this Act;
- (d) "member" means a member of the Institute;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "specified" means specified by regulations made under this Act.

4. Incorporation of Institute.— The National Institute of Mental Health and Neuro-Sciences, Bangalore, an Institute registered under the Karnataka Societies Registration Act, 1960 on the 27th day of December, 1974, is hereby constituted a body corporate by the name aforesaid and as such body corporate, it shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and shall, by that name, sue and be sued.

5. Composition of Institute.— (1) The Institute shall consist of the following members, namely:—

- (a) the Minister of Health and Family Welfare, *ex-officio*;
- (b) the Minister of Health and Family Welfare (Medical Education), Government of Karnataka, *ex-officio*;
- (c) Secretary to the Government of India in the Ministry or Department of Health and Family Welfare, *ex-officio*;
- (d) the Director of the Institute, *ex-officio*;
- (e) Secretary to the Government of India or his nominee (not below the rank of Joint Secretary) Ministry of Finance, Department of Expenditure, *ex-officio*;
- (f) Secretary to the Government of India or his nominee (not below the rank of Joint Secretary) in the Department of Higher Education, Ministry of Human Resource Development, *ex-officio*;
- (g) the Director-General of Health Services, Government of India, *ex-officio*;
- (h) the Vice-Chancellor of Rajiv Gandhi University of Health Sciences, Karnataka, *ex-officio*;
- (i) the Chief Secretary to the Government of Karnataka or his nominee who shall not be below the rank of Secretary to that Government;
- (j) seven persons of whom one shall be a non-medical scientist representing the Indian Sciences Congress Association, and, one each from biological; behavioural and physical sciences, of repute, from any University to be nominated by the Central Government in such manner as may be prescribed;
- (k) four representatives of medical faculties of Indian Universities, of whom one shall be from the National Institute of Mental Health and Neuro-Sciences, to be nominated by the Central Government in such manner as may be prescribed;
- (l) three Members of Parliament of whom two shall be elected from among themselves by the members of the House of the People and one from among themselves by the members of the Council of States.

(2) It is hereby declared that the office of member of the Institute shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

6. Term of office of and vacancies among members.— (1) Save as otherwise provided in this section, the term of office of a member shall be five years from the date of his nomination or election.

(2) The term of office of a member elected under clause (1) of sub-section (1) of section 5 shall come to an end as soon as he becomes a Minister or Minister of State or Deputy Minister or the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or ceases to be a member of the House from which he was elected.

(3) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is such a member.

(4) The term of office of a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he is nominated or elected.

(5) An outgoing member other than a member elected under clause (1) of sub-section (1) of section 5 shall continue in office until another person is nominated as a member in his place or for a period of three months, whichever is earlier:

Provided that the Central Government shall nominate a member in place of an outgoing member within the said period of three months.

(6) An outgoing member shall be eligible for re-nomination or re-election.

(7) A member may resign his office by writing under his hand addressed to the Central Government but he shall continue in office until his resignation is accepted by that Government.

(8) The manner of filling vacancies among members shall be such as may be prescribed.

7. Powers and functions of President.-(1) There shall be a President of the Institute who shall be nominated by the Central Government from amongst the members other than the Director of the Institute.

(2) The President shall exercise such powers and discharge such functions as are laid down in this Act or as may be prescribed.

8. Vice-President of Institute.- There shall be a Vice-President of the Institute who shall be nominated by the Central Government from amongst the members other than the Director of the Institute.

9. Allowances of President, Vice-President and other members.- The President, Vice-President and other members shall receive such allowances from the Institute as may be prescribed.

10. Meetings of Institute.- The Institute shall hold its first meeting at such time and place as may be appointed by the Central Government and shall observe such rules of procedure in regard to the transaction of business at the first meeting as may be laid down by that Government, and thereafter, the Institute shall meet at such times and places and observe such rules of procedure in regard to the transaction of business at its meetings as may be specified.

11. Governing Body and other committees of Institute.-(1) There shall be a Governing Body of the Institute which shall be constituted by the Institute in such manner as may be specified :

Provided that the number of persons who are not members of the Institute shall not exceed one-third of the total membership of the Governing Body.

(2) The Governing Body shall be the executive committee of the Institute and shall exercise such powers and discharge such functions as the Institute may specify in this behalf

(3) The President of the Institute shall be the Chairperson of the Governing Body and as Chairperson thereof he shall exercise such powers and discharge such functions as may be specified.

(4) The procedure to be followed in the exercise of its powers and discharge of its functions by the Governing Body, and the term of office of, and the manner of filling vacancies among the members of the Governing Body shall be such as may be specified.

(5) Subject to such control and restrictions as may be prescribed, the Institute may constitute as many standing committees and as many *ad hoc* committees as it thinks fit for exercising any power or discharging any function of the Institute or for inquiring into, or reporting or advising upon, any matter which the Institute may refer to them.

(6) The Chairperson and members of the Governing Body and the Chairperson and the members of a standing committee or an *ad hoc* committee shall receive such allowances, as may be specified.

12. Staff of Institute.-(1) There shall be a chief executive officer of the Institute who shall be designated as the Director of the Institute and shall, subject to such rules as may be prescribed, be appointed by the Institute:

Provided that the first Director of the Institute shall be appointed by the Central Government.

(2) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(3) The Director shall act as the Secretary to the Institute as well as the Governing Body.

(4) The Director shall exercise such powers and discharge such functions as may be specified or as may be delegated to him by the Institute or the President of the Institute or the Governing Body or the Chairperson of the Governing Body.

(5) Subject to such rules as may be prescribed, the Institute may appoint such number of other officers and employees as may be necessary for the exercise of its powers and discharge of its functions and the designations and grades of other officers and employees shall be such as may be specified.

(6) Subject to such rules as may be prescribed, the Director and other officers and employees of the Institute shall be entitled to such salary and allowances and shall be governed by such conditions of service in respect of leave, pension, provident fund and other matters as may be specified.

13. Objects of Institute.- The objects of the Institute shall be —

- (a) to develop patterns of teaching in undergraduate and postgraduate medical education in all its branches with a focus on mental health, neuro-sciences and allied specialities so as to demonstrate a high standard of medical education;
- (b) to bring together, as far as may be, in one place educational facilities of the highest order for the training of personnel in all important branches of health activity;
- (c) to attain self-sufficiency in postgraduate medical education to meet the country's needs for specialists and medical teachers, particularly in the field of mental health, neuro-sciences and allied specialities;
- (d) to evolve innovative strategies to offer diagnostic and comprehensive therapeutic service facilities in the field of mental health and neuro-sciences, utilising the advances in information technology;
- (e) to make an in-depth study and research in the field of mental health, neuro-sciences and allied specialities.

14. Functions of Institute.- With a view to the promotion of the objects specified in section 13, the Institute may—

- (a) provide for undergraduate and postgraduate teaching in the science of modern medicine and other allied sciences including physical and biological sciences;
- (b) provide facilities for research in the various branches of such sciences;
- (c) provide for the teaching of humanities;
- (d) conduct experiments in new methods of medical education, both undergraduate and postgraduate, in order to arrive at high standard of such education;
- (e) specify courses and curricula for both undergraduate and postgraduate studies;
- (f) notwithstanding anything contained in any other law for the time being in force, establish and maintain,—
 - (i) one or more medical institutions with different departments staffed and equipped to undertake education and conduct research in different subjects,
 - (ii) one or more well equipped hospitals to provide clinical services,
 - (iii) nursing colleges staffed and equipped for the training of nurses,
 - (iv) rural and urban health centres which will form centres for the field training of the medical and nursing students of the Institute, and
- (v) other institutions for the training of different types of health workers such as physiotherapists, occupational therapists and medical technicians of various kinds;
- (g) trained teachers from different medical colleges in India;
- (h) hold examinations and grant such degrees, diplomas and other academic distinctions and titles in undergraduate and postgraduate medical, nursing and allied specialities education as may be laid down in the regulations;
- (i) induct and appoint persons as professors, readers, lecturers and in posts of other description in accordance with regulations;
- (j) receive grants from the Government and gifts, donations, benefactions, bequests and transfers of properties, both movable and immovable, from donors, benefactors, testators or transferors, as the case may be;
- (k) deal with any property belonging to, or vested in, the Institute in any manner which is considered necessary for promoting the objects specified in section 12;
- (l) demand and receive with the prior approval of the Central Government such fees and other charges as may be specified;
- (m) construct quarters for its staff and allot such quarters to the staff in accordance with such regulations as may be made in this behalf;

- (n) borrow money, with the prior approval of the Central Government, on the security of the property of the Institute;
- (o) do all such other acts and things as may be necessary in furtherance of the objects specified in section 13.

15. Karnataka Act XVII of 1960.-Vesting of property.- (1) The properties of the National Institute of Mental Health and Neuro-Sciences, Bangalore, registered under the Karnataka Societies Registration Act, 1960 shall, on the date of commencement of this Act, vest in the Institute.

(2) All income and property of the Institute shall be applied towards the promotion of the objects thereof as set forth in this Act.

(3) No portion of the income and property of the Institute shall be paid or transferred, directly or indirectly, by way of profit to the persons, who at any time, or have been members of the Institute:

Provided that nothing herein contained shall prevent the payment of remuneration and other allowances to any member thereof or other persons for the services rendered to the Institute.

16. Payment to Institute.- The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as may be considered necessary for the exercise of its powers and discharge of its functions under this Act.

17. Fund of Institute.- (1) The Institute shall maintain a Fund to which shall be credited—

- (a) all moneys provided by the Central Government and the State Government of Karnataka;
- (b) all fees and other charges received by the Institute;
- (c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and
- (d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its functions under section 14.

18. Budget of Institute.- The Institute shall prepare in such form and at such time every year a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Institute and shall forward to the Central Government such number of copies thereof as may be prescribed.

19. Accounts and audit.- (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the Central Government may prescribe, and in accordance with such general directions as may be issued by that Government, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute as well as of the institutions established and maintained by it.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both the Houses of Parliament.

20. Annual report. - The Institute shall prepare for every year a report of its activities during that year and submit the report to the Central Government in such form and on or before such date as may be prescribed and a copy of this report shall be laid before both Houses of Parliament within one month of its receipt.

21. Pension and provident funds.- (1) The Institute shall constitute for the benefit of its officers, teachers and other employees in such manner and subject to such conditions as may be specified such pension and provident funds as it may deem fit.

(2) Where any such pension or provident fund has been constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 (19 of 1925) shall apply to, such fund as if it were a Government Provident Fund.

22. Authentication of orders and instruments of Institute.— All orders and decisions of the Institute shall be authenticated by the Director or any other member authorised by the Institute in this behalf and all other instruments shall be authenticated by the signature of the Director or such officers as may be authorised by the Institute.

23. Acts and proceedings not to be invalidated by vacancies, etc.— No act done or proceeding taken by the Institute, Governing Body or any standing or *ad hoc* committee under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Institute, Governing Body or such standing or *ad hoc* committee.

24. Grant of medical degrees, diplomas, etc., by Institute.— Notwithstanding anything contained in any other law for the time being in force, the Institute shall have the power to grant medical and nursing degrees, diplomas, certificates and other academic distinctions and titles under this Act.

25. Recognition of medical qualifications granted by Institute.— Notwithstanding anything contained in the Indian Medical Council Act, 1956, (102 of 1956) the Rehabilitation Council of India Act, 1992, (34 of 1992) the Indian Nursing Council Act, 1947 (48 of 1947) and the University Grants Commission Act, 1956, (3 of 1956) the medical degrees, diplomas, nursing degrees and certificates granted by the Institute under this Act shall be recognised medical qualifications for the purposes of the Acts aforesaid and shall be deemed to be included in the Schedule to the respective Acts.

26. Control by Central Government.— The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

27. Resolution of differences.— If in, or in connection with, the exercise of its powers and discharge of its functions by the Institute under this Act, any dispute or difference arises between the Institute and the Central Government, the decision of the Central Government thereon shall be final.

28. Returns and information.— The Institute shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.

29. Transfer of service of existing employees.— Subject to the provisions of this Act, every person who is employed in the National Institute of Mental Health and Neuro-Sciences, Bangalore, immediately before the commencement of this Act, shall, on and from such commencement, become an employee of the Institute and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same on the date of commencement of this Act if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by regulations:

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

30. Power to make rules.— (1) The Central Government may in consultation with the Institute by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of nomination of members under clauses (j) and (k) of sub-section (1) of section 5;
- (b) the manner of filling vacancies of members under sub-section (8) of section 6;
- (c) the powers and functions to be exercised and discharged by the President of the Institute under sub-section (2) of section 7;
- (d) the allowances to be paid to the President and other members of the Institute under section 9;
- (e) the control and restrictions in relation to the constitution of standing and *ad hoc* committees under sub-section (5) of section 11;
- (f) appointment of Director and other officers and employees and salaries and allowances and other conditions of service of the Director and other officers and employees of the Institute under section 12;
- (g) the form in which, and the time at which, the budgets and reports shall be prepared by the Institute under section 18;
- (h) the form of annual statement of accounts including balance-sheet under sub-section (1) of section 19;
- (i) the form of annual report under section 20;
- (j) any other matter which has to be or may be prescribed by rules.

31. Power to make regulations.- (1) The Institute with the previous approval of the Central Government, may by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for—

- (a) the summoning and holding of meetings, other than the first meeting, of the Institute, the time and place where such meetings are to be held and the conduct of business at such meetings under section 10;
- (b) the manner of constituting the Governing Body and standing and ad hoc committees, the term of office of, and the manner of filling vacancies therein, the allowances to be paid to the members and the procedure to be followed by the Governing Body; standing and ad hoc committees in the conduct of their business, exercise of their power, discharge of their function under section 11;
- (c) the powers and duties of the Director of the Institute under sub-section (4), the designations and grades of other officers and employees under sub-section (5) and other conditions of service under sub-section (6) of section 12;
- (d) the power of the Institute under section 14, to specify—
 - (i) courses and curricula for undergraduate and postgraduate studies under clause (e);
 - (ii) hold examination and grant degrees, diplomas, certificates and other academic distinctions and titles under clause (h);
 - (iii) the professorships, readerships, lecturerships and other posts which may be instituted and persons who may be appointed to such posts under clause (i);
 - (iv) the management of the properties of the Institute under clauses (k) and (m);
 - (v) the fees and other charges which may be demanded and received by the Institute under clause (1);
 - (e) the manner in which, and the conditions subject to which, pension and provident funds may be constituted for the benefit of officers, teachers and other employees of the Institute under sub-section (1) of section 21;
 - (f) any other matter for which under this Act provisions may be made by regulations.

(2) Notwithstanding anything contained in sub-section (1), the first regulations under this Act shall be made by the Central Government; and any regulations so made may be altered or rescinded by the Institute in exercise of its powers under sub-section (1).

32. Laying of rules and regulations before Parliament.- Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

33. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

DR. BRAHM AVTAR AGRAWAL,
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಆಂಜನಿ,

ಸಹಾಯಕ ಪ್ರಾರ್ಥಕಾರ ಮತ್ತು ಪದನಿರ್ಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಕೂಹನೆ

ಸಂಖ್ಯೆ: ಸಂಖ್ಯಾತ್ರ 10 ಕೇಂದ್ರಪ್ರ 2013, ಬಿಂಗಳೂರು, ದಿನಾಂಕ: 16/21ನೇ ಮೇ, 2013.

2013ನೇ ಸಾಲಿನ 07-01-2013ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಂಟೋನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಟನ್ (1)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Banking Laws (Amendment) Act, 2012 (No. 04 of 2013) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

The following Act of Parliament received the assent of the President on the 5th January, 2013, and is hereby published for general information:—

THE BANKING LAWS (AMENDMENT) ACT, 2012

No. 4 of 2013

[5th January, 2013]

An Act further to amend the Banking Regulation Act, 1949, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and to make consequential amendments in certain other enactments.

Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.— (1) This Act may be called the Banking Laws (Amendment) Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

2. Amendment of section 5.— In section 5 of the Banking Regulation Act, 1949 (10 of 1949) (hereinafter in the chapter referred to as the principal Act), for clause (a), the following clause shall be substituted, namely:—

‘(a) “approved securities” means the securities issued by the Central Government or any State Government or such other securities as may be specified by the Reserve Bank from time to time;’.

3. Amendment of section 12.— In section 12 of the principal Act,—

(A). in sub-section (1)—

(i) for clause (ii), the following clause shall be substituted, namely:—

“(ii) that, notwithstanding anything contained in the Companies Act, 1956, (1 of 1956) the capital of such banking company consists of—

- (a) equity shares only, or
- (b) equity shares and preference shares:

Provided that the issue of preference share shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable), and the terms and conditions subject to which each class of preference shares may be issued:

Provided further that no holder of the preference share, issued by the company, shall be entitled to exercise the voting right specified in clause (b) of sub-section (2) of section 87 of the Companies Act, 1956;”; (1 of 1956)

(ii) the proviso shall be omitted;

(B). in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the Reserve Bank may increase, in a phased manner, such ceiling on voting rights from ten per cent to twenty-six per cent.”

4. Insertion of new section 12B.—After section 12A of the principal Act, the following section shall be inserted, namely:—

‘12B. Regulation of acquisition of shares or voting rights.— (1) No person (hereinafter referred to as “the applicant”) shall, except with the previous approval of the Reserve Bank, on an application being made, acquire or agree to acquire, directly or indirectly, by himself or acting in concert with any other person, shares of a banking company or voting rights therein, which acquisition taken together with shares and voting rights, if any, held by him or his relative or associate enterprise or person acting in concert with him, makes the applicant to hold five per cent. or more of the paid-up share capital of such banking company or entitles him to exercise five per cent. or more of the voting rights in such banking company.

Explanation 1.—For the purposes of this sub-section,—

- (a) “associate enterprise” means a company, whether incorporated or not, which,—
 - (i) is a holding company or a subsidiary company of the applicant; or
 - (ii) is a joint venture of the applicant; or
 - (iii) controls the composition of the Board of Directors or other body governing the applicant; or
 - (iv) exercises, in the opinion of the Reserve Bank, significant influence on the applicant in taking financial or policy decisions; or
 - (v) is able to obtain economic benefits from the activities of the applicant;
- (b) “relative” shall have the meaning assigned to it in section 6 of the Companies Act, 1956; (1 of 1956)
- (c) persons shall be deemed to be “acting in concert” who, for a common objective or purpose of acquisition of shares or voting rights in excess of the percentage mentioned in this sub-section, pursuant to an agreement or understanding (formal or informal), directly or indirectly cooperate by acquiring or agreeing to acquire shares or voting rights in the banking company.

Explanation 2.—For the purposes of this Act, joint venture means a legal entity in the nature of a partnership engaged in the joint undertaking of a particular transaction for mutual profit or an association of persons or companies jointly undertaking some commercial enterprise wherein all contribute assets and share risks.

(2) An approval under sub-section (1) may be granted by the Reserve Bank if it is satisfied that—

- (a) in the public interest; or
- (b) in the interest of banking policy; or
- (c) to prevent the affairs of any banking company being conducted in a manner detrimental or prejudicial to the interests of the banking company; or
- (d) in view of the emerging trends in banking and international best practices; or
- (e) in the interest of the banking and financial system in India,

the applicant is a fit and proper person to acquire shares or voting rights:

Provided that the Reserve Bank may call for such information from the applicant as it may deem necessary for considering the application referred to in sub-section (1):

Provided further that the Reserve Bank may specify different criteria for acquisition of shares or voting rights in different percentages.

(3) Where the acquisition is by way of transfer of shares of a banking company and the Reserve Bank is satisfied that such transfer should not be permitted, it may, by order, direct that no such share shall be transferred to the proposed transferee and may

further direct the banking company not to give effect to the transfer of shares and in case the transfer has been registered, the transferee shall not be entitled to exercise voting rights on poll in any of the meetings of the banking company.

(4) The approval for acquisition of shares may be subject to such conditions as the Reserve Bank may deem fit to impose, including a condition that any further acquisition of shares shall require prior approval of the Reserve Bank and that the applicant continues to be a fit and proper person to hold the shares or voting rights.

(5) Before issuing or allotting any share to any person or registering the transfer of shares in the name of any person, the banking company shall ensure that the requirements of sub-section (1) are complied with by that person and where the acquisition is with the approval of the Reserve Bank, the banking company shall further ensure that the conditions imposed under sub-section (4), if any, of such approval are fulfilled.

(6) The decision of the Reserve Bank on the application made under sub-section (1) shall be taken within a period of ninety days from the date of receipt of the application by the Reserve Bank:

Provided that in computing the period of ninety days, the period taken by the applicant for furnishing the information called for by the Reserve Bank shall be excluded.

(7) The Reserve Bank may specify the minimum percentage of shares to be acquired in a banking company if it considers that the purpose for which the shares are proposed to be acquired by the applicant warrants such minimum shareholding.

(8) The Reserve Bank may, if it is satisfied that any person or persons acting in concert with him holding shares or voting rights in excess of five per cent. of the total voting rights of all the shareholders of the banking company, are not fit and proper to hold such shares or voting rights, pass an order directing that such person or persons acting in concert with him shall not, in the aggregate, exercise voting rights on poll in excess of five per cent. of the total voting rights of all the shareholders of the banking company:

Provided that the Reserve Bank shall not pass any such order without giving an opportunity of being heard to such person or persons acting in concert with him.'

5. Amendment of section 13.—In section 13 of the principal Act,—

- (i) for the words "paid-up value of the said shares" occurring at the end, the words "price at which the said shares are issued" shall be substituted;
- (ii) the following *Explanation* shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby declared that the expression "price at which the said shares are issued" shall include amount or value of premium on such shares.'

6. Amendment of section 18.—In section 18 of the principal Act,—

- (i) in sub-section (1),—
 - (a) for the words "shall maintain in India", the words "shall maintain in India on a daily basis" shall be substituted;
 - (b) for the words "at least three per cent.", the words "such per cent." shall be substituted;
 - (c) after the words "second preceding fortnight", the words "as the Reserve Bank may specify, by notification in the Official Gazette, from time to time, having regard to the needs of securing the monetary stability in the country" shall be inserted;
 - (d) in the *Explanation*, in clause (a), in sub-clause (i), the words "or from the Development Bank" shall be omitted;
- (ii) after sub-section (1), the following sub-sections shall be inserted, namely:—
 - "(1A) If the balance held by such banking company at the close of business on any day is below the minimum specified under sub-section (1), such banking company shall, without prejudice to the provisions of any other law for the time being in force, be liable to pay to the Reserve Bank, in respect of that day, penal interest at a rate of three per cent. above the bank rate on the amount by which such balance falls short of the specified minimum, and if the shortfall continues further, the penal interest so charged shall be increased to a rate of five per cent. above the bank rate in respect of each subsequent day during which the default continues.
 - (1B) Notwithstanding anything contained in this section, if the Reserve Bank is satisfied, on an application in writing by the defaulting banking company, that such defaulting banking company had sufficient cause for its failure to comply with the provisions of sub-section (1), it may not demand the payment of the penal interest.

(1C) The Reserve Bank may, for such period and subject to such conditions as may be specified, grant to any banking company such exemptions from the provisions of this section as it thinks fit with reference to all or any of its offices or with reference to the whole or any part of its assets and liabilities.”.

7. Amendment of section 24.—In section 24 of the principal Act,—

- (a) in sub-section (4), in clause (a), the words, brackets and letter “clause (a) of ” shall be omitted;
- (b) in sub-section (5), in clause (b), the words, brackets and letter “clause (a) of ” shall be omitted;
- (c) in sub-section (8), the words, brackets and letter “clause (a) of ” shall be omitted.

8. Insertion of new section 26A.—After section 26 of the principal Act, the following section shall be inserted, namely:—

‘26A. Establishment of Depositor Education and Awareness Fund.—(1) The Reserve Bank shall establish a Fund to be called the “Depositor Education and Awareness Fund” (hereafter in this section referred to as the “Fund”).

(2) There shall be credited to the Fund the amount to the credit of any account in India with a banking company which has not been operated upon for a period of ten years or any deposit or any amount remaining unclaimed for more than ten years, within a period of three months from the expiry of the said period of ten years:

Provided that nothing contained in this sub-section shall prevent a depositor or any other claimant to claim his deposit or unclaimed amount or operate his account or deposit account from or with the banking company after the expiry of said period of ten years and such banking company shall be liable to repay such deposit or amount at such rate of interest as may be specified by the Reserve Bank in this behalf.

(3) Where the banking company has paid outstanding amount referred to in subsection (2) or allowed operation of such account or deposit, such banking company may apply for refund of such amount in such manner as may be specified by the authority or committee referred to in sub-section (5).

(4) The Fund shall be utilised for promotion of depositors' interests and for such other purposes which may be necessary for the promotion of depositors' interests as may be specified by the Reserve Bank from time to time.

(5) The Reserve Bank shall, by notification in the Official Gazette, specify an authority or committee, with such members as the Reserve Bank may appoint, to administer the Fund, and to maintain separate accounts and other relevant records in relation to the Fund in such forms as may be specified by the Reserve Bank.

(6) It shall be competent for the authority or committee appointed under subsection (5) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established.’.

9. Insertion of new section 29A.—After section 29 of the principal Act, the following section shall be inserted, namely:—

‘29A. Power in respect of associate enterprises.—(1) The Reserve Bank may, at any time, direct a banking company to annex to its financial statements or furnish to it separately, within such time and at such intervals as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of any associate enterprise of the banking company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

(2) Notwithstanding anything to the contrary contained in the Companies Act, 1956, (1 of 1956) the Reserve Bank may, at any time, cause an inspection to be made of any associate enterprise of a banking company and its books of account jointly by one or more of its officers or employees or other persons along with the Board or authority regulating such associate enterprise.

(3) The provisions of sub-sections (2) and (3) of section 35 shall apply *mutatis mutandis* to the inspection under this section.

Explanation.—“associate enterprise” in relation to a banking company includes an enterprise which—

- (i) is a holding company or a subsidiary company of the banking company; or
- (ii) is a joint venture of the banking company; or
- (iii) is a subsidiary company or a joint venture of the holding company of the banking company; or
- (iv) controls the composition of the Board of directors or other body governing the banking company; or
- (v) exercises, in the opinion of the Reserve Bank, significant influence on the banking company in taking financial or policy decisions; or

(vi) is able to obtain economic benefits from the activities of the banking company.'

10. Insertion of new Part IIAB.—After Part IIA of the principal Act, the following Part shall be inserted, namely:—

"PART IIAB

SUPERSESSION OF BOARD OF DIRECTORS OF BANKING COMPANY

36ACA. Supersession of Board of Directors in certain cases.— (1) Where the Reserve Bank is satisfied, in consultation with the Central Government, that in the public interest or for preventing the affairs of any banking company being conducted in a manner detrimental to the interest of the depositors or any banking company or for securing the proper management of any banking company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of Directors of such banking company for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(2) The Reserve Bank may, on supersession of the Board of Directors of the banking company under sub-section (1) appoint in consultation with the Central Government for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of Directors of a banking company, notwithstanding anything contained in the Companies Act, 1956, (1 of 1956.)—

- (a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;
- (b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956 (1 of 1956.) or this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such banking company, or by a resolution passed in general meeting of such banking company, shall, until the Board of Directors of such banking company is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such banking company.

(5) The Reserve Bank may constitute, in consultation with the Central Government, a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(7) The salary and allowances to the Administrator and the members of the committee constituted under sub-section (5) by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned banking company.

(8) On and before the expiration of two months before the expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (1), the Administrator of the banking company, shall call the general meeting of the company to elect new directors and reconstitute its Board of Directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of Directors of such banking company has been reconstituted.”.

11. Amendment of section 46- In section 46 of the principal Act,—

- (a) in sub-section (1), for the words “and shall also be liable to fine”, the words “or with fine, which may extend to one crore rupees or with both” shall be substituted;
- (b) in sub-section (2),—
 - (i) for the words “two thousand rupees”, the words “twenty lakh rupees” shall be substituted;
 - (ii) for the words “one hundred rupees”, the words “fifty thousand rupees” shall be substituted;

(c) in sub-section (4),—

- for the words “fifty thousand rupees”, the words “one crore rupees” shall be substituted;
- for the words “two thousand and five hundred rupees”, the words “one lakh rupees” shall be substituted.

12. Amendment of section 47A.- In section 47A of the principal Act, in sub-section (1),—

- in the opening portion, for the words, brackets and figures “sub-section (3) or sub-section (4)”, the words, brackets and figures “sub-section (2) or sub-section (3) or sub-section (4)” shall be substituted;
- for sub-clauses (a) and (b), the following sub-clauses shall be substituted, namely:—
 - where the contravention or default is of the nature referred to in sub-section (2) of section 46, a penalty not exceeding twenty lakh rupees in respect of each offence and if the contravention or default persists, a further penalty not exceeding fifty thousand rupees for everyday, after the first day, during which the contravention or default continues;
 - where the contravention is of the nature referred to in sub-section (3) of section 46, a penalty not exceeding twice the amount of the deposits in respect of which such contravention was made;
 - where the contravention or default is of the nature referred to in sub-section (4) of section 46, a penalty not exceeding one crore rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to one lakh rupees for everyday, after the first day, during which the contravention or default continues.”.

13. Amendment of section 51.- In section 51 of the principal Act, in sub-section (1), before the words, brackets, figures and letters “sub-sections (1B), (1C) and (2) of sections 30”, the figures and letter “29A,” shall be inserted.

14. Amendment of section 56.- In section 56 of the principal Act,—

- in clause (j) relating to substitution of section 18,—
 - in sub-section (1),—
 - for the words “State Co-operative Bank”, the words “a co-operative bank” shall be substituted;
 - for the brackets and words ‘(hereinafter referred to as a “scheduled State co-operative bank”)’, the brackets and words ‘(hereinafter referred to as a “scheduled co-operative bank”)’ shall be substituted;
 - for the words “at least three per cent.”, the words “such per cent.” shall be substituted; and
 - after the words “second preceding fortnight”, the words “as the Reserve Bank may specify, by notification in the Official Gazette, from time to time having regard to the needs for securing the monetary stability in the country” shall be inserted;
 - in the Explanation,—
 - in clause (a),—
 - in sub-clause (ii), the words “the Development Bank” shall be omitted;
 - in sub-clauses (iii) and (iv), for the words “State co-operative bank”, the words “Co-operative Bank” shall be substituted;
 - in clause (c), for the letter and words “a corresponding new bank”, the words and letters “a corresponding new bank or IDBI Bank Ltd.” shall be substituted;
 - after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If the balance held by co-operative bank referred to in sub-clause (cc) of clause (c) of section 56 of the Banking Regulation Act, 1949, (10 of 1949).at the close of business on any day is below the minimum specified under sub-section (1), such co-operative bank shall, without prejudice to the provisions of any other law for the time being in force, be

liable to pay to the Reserve Bank, in respect of that day, penal interest at a rate of three per cent. above the bank rate on the amount by which such balance falls short of the specified minimum, and if the shortfall continues further, the penal interest so charged shall be increased to a rate of five per cent. above the bank rate in respect of each subsequent day during which the default continues.

(1B) Notwithstanding anything contained in this section, if the Reserve Bank is satisfied, on an application in writing by the defaulting co-operative bank, that such defaulting co-operative bank had sufficient cause for its failure to comply with the provisions of sub-section (1), it may not demand the payment of the penal interest.

(1C) The Reserve Bank may, for such period and subject to such conditions as may be specified, grant to any co-operative bank such exemptions from the provisions of this section as it thinks fit with reference to all or any of its officers or with reference to the whole or any part of its assets and liabilities.”;

(b) in clause (o) relating to the modification of section 22,—

(A) in sub-section (1),—

- (i) clause (a) shall be omitted;
- (ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that nothing in this sub-section shall apply to a primary credit society carrying on banking business on or before the commencement of the Banking Laws (Amendment) Act, 2012, for a period of one year or for such further period not exceeding three years, as the Reserve Bank may, after recording the reasons in writing for so doing, extend.”;

(B) in sub-section (2),—

- (i) for the words “every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months from the date on which it so becomes a primary co-operative bank”, the words, brackets and figures “every primary credit society which had become a primary co-operative bank on or before the commencement of the Banking Laws (Amendment) Act, 2012, shall before the expiry of three months from the date on which it had become a primary co-operative bank” shall be substituted;
- (ii) the words “other than a primary credit society” shall be omitted;
- (iii) in the proviso,—
 - (a) in clause (ii), for the words “thereafter, or”, the word “thereafter,” shall be substituted;
 - (b) clause (iii) shall be omitted;

(c) in clause (q) relating to modification of section 24,—

- (a) sub-clause (i) shall be omitted;
- (b) for sub-clause (ii), the following sub-clause shall be substituted, namely:—
- (ii) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) A scheduled co-operative bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934) and every other co-operative bank, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent. of the total of its demand and time liabilities in India as on last Friday of the second preceding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify from time to time and such assets shall be maintained in such form and manner, as may be specified in such notification.”’;

(d) after clause (r), the following clause shall be inserted, namely:—

‘(ria) in section 26A, for the words “banking companies”, the words “co-operative bank” shall be substituted;’;

(e) in clause (s), in the opening portion, for the words and figures, “sections 29 and 30”, the word and figures “section 29” shall be substituted;

(f) after clause (s), the following clause shall be inserted, namely:—

‘(sa) for section 30, the following section shall be substituted, namely:—

“30. **Audit.**—(1) Without prejudice to anything contained in any other law for the time being inforce, where the Reserve Bank is satisfied that it is necessary in the public interest or in the interest of the co-operative bank or its depositors so to do, it may at any time by general or special order direct that an additional audit of the co-operative bank accounts, for any such transactions or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint a person duly qualified under any law for the time being inforce to be an auditor of companies to conduct such audit, and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the co-operative bank.

(2) The expenses of, or incidental to, the additional audit specified in the order made by the Reserve Bank shall be borne by the co-operative bank.

(3) The auditor referred to in sub-section (1) shall have such powers, exercise such functions vested in and discharge the duties and be subject to the liabilities and penalties imposed on auditors of companies by section 227 of the Companies Act, 1956 (1 of 1956) and also that of the auditors, if any, appointed by the law establishing, constituting or forming the co-operative bank to the extent the provisions of the Companies Act, 1956 are not inconsistent with the provisions of such law.

(4) In addition to the matters referred to in the order under sub-section (1) the auditor shall state in his report—

- (a) whether or not the information and explanation required by him have been found to be satisfactory;
- (b) whether or not the transactions of the co-operative bank which came to his notice have been within the powers of the co-operative bank;
- (c) whether or not the returns received from branch offices of the co-operative bank have been found adequate for the purpose of his audit;
- (d) whether the profit and loss accounts, shows a true balance or profit or loss for the period covered by such account;
- (e) any other matter which he considers should be brought to the notice of the Reserve Bank and the shareholders of the co-operative bank.”’.

CHAPTER III

AMENDMENT TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970

15. Amendment of section 3- In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 OF 1970)— (5 of 1970).

(a) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) Subject to the provisions of this Act, the authorised capital of every corresponding new bank shall be three thousand crores of rupees divided into three hundred crores of fully paid-up shares of ten rupees each:

Provided that the corresponding new bank may reduce the nominal or face value of the shares, and divide the authorised capital into such denomination as it may decide with the prior approval of the Reserve Bank:

Provided further that the Central Government may in consultation with the Reserve Bank and by notification in the Official Gazette increase or reduce the authorised capital as it deems fit so however that the shares in all cases shall be fully paid-up shares.”;

- (b) in sub-section (2B), in clause (c), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (c) in sub-section (2BB), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (d) in sub-section (2BBA), in clause (a), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (e) in sub-section (2C), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (f) in sub-section (2E),—
 - (i) for the words "one per cent.", the words "ten per cent." shall be substituted;
 - (ii) in the second proviso, for the words "no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of one per cent.", the words "no preference shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent." shall be substituted.

CHAPTER IV

AMENDMENT TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

16. Amendment of section 3.—In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, (40 of 1980.)—

- (a) for sub-section (2A), the following sub-section shall be substituted, namely:—

"(2A) Subject to the provisions of this Act, the authorised capital of every corresponding new bank shall be three thousand crores of rupees divided into three hundred crores of fully paid-up shares of ten rupees each:

Provided that the corresponding new bank may reduce the nominal or face value of the shares, and divide the authorised capital into such denomination as it may decide with the prior approval of the Reserve Bank:

Provided further that the Central Government may, in consultation with the Reserve Bank, and by notification in the Official Gazette increase or reduce the authorised capital as it deems fit so however that the shares in all cases shall be fully paid-up shares.";

- (b) in sub-section (2B), in clause (c), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (c) in sub-section (2BB), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (d) in sub-section (2BBA), in clause (a), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (e) in sub-section (2C), after the words "public issue", the words "or rights issue or by issue of bonus shares" shall be inserted;
- (f) in sub-section (2E),—
 - (i) for the words "one per cent.", the words "ten per cent." shall be substituted;
 - (ii) in the second proviso, for the words "no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of one per cent.", the words "no preference shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent." shall be substituted.

CHAPTER V
MISCELLANEOUS

17. Amendment of certain enactments.—The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE
(See section 17)

Sl. No.	Short Title	Amendment
1	<p>The Indian Contracts Act, 1872. (9 of 1872)</p> <p>Saving of a guarantee agreement of a bank or a financial institution.</p>	<p>In section 28, after <i>Exception 2</i>, the (9 of 1872). following <i>Exception</i> shall be inserted, namely:—</p> <p><i>Exception 3.</i>—This section shall not render illegal a contract in writing by which any bank or financial institution stipulate a term in a guarantee or any agreement making a provision for guarantee for extinguishment of the rights or discharge of any party thereto from any liability under or in respect of such guarantee or agreement on the expiry of a specified period which is not less than one year from the date of occurring or non-occurring of a specified event for extinguishment or discharge of such party from the said liability.</p> <p>Explanation.—</p> <p>(i) In Exception 3, the expression "bank" means—</p> <p>(a) a "banking company" as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.</p> <p>(b) "a corresponding new bank" as defined in clause (da) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.</p> <p>(c) "State Bank of India" constituted under section 3 of the State Bank of India Act, 1955; 23 of 1955.</p> <p>(d) "a subsidiary bank" as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.</p> <p>(e) "a Regional Rural Bank" established under section 3 of the Regional Rural Banks Act, 1976;</p> <p>(f) "a Co-operative Bank" as defined in clause (cci) of section 5 of the Banking Regulation Act, 1949; 21 of 1976</p> <p>(g) "a multi-State co-operative bank" as defined in clause (cciiia) of section 5 of the Banking Regulation Act, 1949; and 10 of 1949.</p> <p>(ii) In Exception 3, the expression "a financial institution" means any Public financial institution within the meaning of section 4A of the Companies Act, 1956.</p>

Sl. No.	Short Title	Amendment
2	<p>Indian Stamp Act, 1899. (2 of 1899).</p> <p>Conversion of a branch of any bank into a wholly owned subsidiary of bank or transfer of shareholding of a bank to a holding company of bank not liable to duty.</p>	<p>After section 8D, the following section shall be inserted, namely:—</p> <p>8E.— Notwithstanding anything contained in this Act or any other law for the time being in force,—</p> <p>(a) conversion of a branch of a bank into a wholly owned subsidiary of the bank or transfer of shareholding of a bank to a holding company of the bank in terms of the scheme or guidelines of the Reserve Bank of India shall not be liable to duty under this Act or any other law for the time being in force; or</p> <p>(b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the conversion of a branch of a bank into a wholly owned subsidiary of the bank or transfer of shareholding of a bank to a holding company of the bank in terms of the scheme or guidelines issued by the Reserve Bank of India in this behalf, shall not be liable to duty under this Act or any other law for the time being in force.</p> <p><i>Explanation.—</i></p> <p>(i) For the purposes of this section, the expression "bank" means—</p> <p>(a) "a banking company" as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.</p> <p>(b) "a corresponding new bank" as defined in clause (da) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.</p> <p>(c) "State Bank of India" constituted under section 3 of the State Bank of India Act, 1955; 23 of 1955.</p> <p>(d) "a subsidiary bank" as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959.</p> <p>(e) "a Regional Rural Bank" established under section 3 of the Regional Rural Banks Act, 1976; 21 of 1976.</p> <p>(f) "a Co-operative Bank" as defined in clause (cc) of section 5 of the Bank Regulation Act, 1949; 10 of 1949.</p> <p>(g) "a multi-State co-operative bank" as defined in clause (cciiia) of section 5 of the Bank Regulation Act, 1949; 10 of 1949.</p> <p>(ii) For the purposes of this section, the expression the "Reserve Bank of India" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934. 2 of 1934.</p>
3	The Reserve Bank of India Act, 1934. (2 of 1934).	<p>In section 8, in sub-section (4), for the words "thereafter until his successor shall have been nominated", the following shall be substituted, namely:—</p> <p>"shall be eligible for reappointment:</p> <p>Provided that any such Director shall not be appointed for more than two terms, that is, for a maximum period of eight years either continuously or intermittently".</p>

Sl. No.	Short Title	Amendment
4	The Reserve Bank of India Act, 1934 (2 of 1934).	In section 9, in sub-section (3), for the words "thereafter until his successor shall have been appointed and shall be eligible for reappointment", the following shall be substituted, namely:— "shall be eligible for reappointment: Provided that any such member shall not be appointed for more than two terms, that is, for a maximum period of eight years either continuously or intermittently".
5	The State Financial Corporation Act, 1951 (63 of 1951).	In section 7, in sub-section (3), the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
6	The State Bank of India Act, 1955 (23 of 1955).	In section 12, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
7	The State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959).	In section 20, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
8	The Warehousing Corporations Act, 1962 (58 of 1962).	In section 5, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
9	The Regional Rural Banks Act, 1976 (21 of 1976).	In section 7, the words and figures "and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
10	The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act, 1993 (23 of 1993).	In section 10, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
11	The Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Act, 1997 (7 of 1997).	In section 11, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.
12	The Unit Trust of India (Transfer of Undertakings and Repeal) Act, 2002 (58 of 2002).	In section 17, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. 10 of 1949.

P. K. MALHOTRA,

Secretary to the Govt. of India

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಅರ್ಥಾತ್ ಅಂಚಿನ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮ್ಮತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದಾರಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಕಾರಿ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾಜ 11 ಕೇಶಾಪ್ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 21ನೇ ಮೇ 2013.

2013ನೇ ಸಾಲಿನ 04-01-2013 ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಂಡೆನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಸ್‌ನೋ (1)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Prevention of Money-Laundering (Amendment) Act, 2012 (No. 02 of 2013) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 4th January, 2013/Pausa 14, 1934 (Saka)

The following Act of Parliament received the assent of the President on the 3rd January, 2013, and is hereby published for general information.

THE PREVENTION OF MONEY-LAUNDERING

(AMENDMENT) ACT, 2012

(No. 2 of 2013)

(3rd January, 2013)

An Act further to amend the Prevention of Money-laundering Act, 2002.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. Short title and commencement. (1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2. In section 2 of the Prevention of Money-laundering Act, 2002 (hereinafter referred to as the principal Act), in sub-section (1),— (15 of 2003)

(i) after clause (f), the following clause shall be inserted, namely:—

‘(fa) “beneficial owner” means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person;’;

(ii) after clause (h), the following clause shall be inserted, namely:—

‘(ha) “client” means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting;’;

(iii) after clause (i), the following clauses shall be inserted, namely:—

‘(ia) “corresponding law” means any law of any foreign country corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the scheduled offences;

(ib) “dealer” has the same meaning as assigned to it in clause (b) of section 2 of the Central Sales Tax Act, 1956;’; (74 of 1956.)

(iv) clause (ja) shall be omitted;

(v) for clause (l), the following clause shall be substituted, namely:—

‘(l) “financial institution” means a financial institution as defined in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 and includes a chit fund company, a housing finance institution, an authorised person, a payment system operator, a non-banking financial company and the Department of Posts in the Government of India;’; (2 of 1934.)

(vi) for clause (n), the following clause shall be substituted, namely:—

‘(n) “intermediary” means,—

(i) a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser or any other intermediary associated with securities market and registered under section 12 of the Securities and Exchange Board of India Act, 1992; or (15 of 1992).

(ii) an association recognised or registered under the Forward Contracts (Regulation) Act, 1952 or any member of such association; or (74 of 1952).

(iii) intermediary registered by the Pension Fund Regulatory and Development Authority; or

(iv) a recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;’; (42 of 1956).

(vii) in clause (q), the words “and includes a person carrying on designated business or profession” shall be omitted;

(viii) in clause (ra), in sub-clause (i), for the word “remit”, the words “transfers in any manner” shall be substituted;

(ix) after clause (s), the following clauses shall be inserted, namely:—

'(sa) "person carrying on designated business or profession" means,—

(i) a person carrying on activities for playing games of chance for cash or kind, and includes such activities associated with casino;

(ii) a Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908, as may be notified by the Central Government; (16 of 1908).

(iii) real estate agent, as may be notified by the Central Government;

(iv) dealer in precious metals, precious stones and other high value goods, as may be notified by the Central Government;

(v) person engaged in safekeeping and administration of cash and liquid securities on behalf of other persons, as may be notified by the Central Government; or

(vi) person carrying on such other activities as the Central Government may, by notification, so designate, from time to time;

(sb) "precious metal" means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government;

(sc) "precious stone" means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government;';

(x) after clause (v), the following shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby clarified that the term "property" includes property of any kind used in the commission of an offence under this Act or any of the scheduled offences;

(va) "real estate agent" means a real estate agent as defined in clause (88) of section 65 of the Finance Act, 1994;'; (32 of 1994).

(xi) after clause (w), the following clause shall be inserted, namely:—

'(wa) "reporting entity" means a banking company, financial institution, intermediary or a person carrying on a designated business or profession,'.

3. Amendment of section 3. In section 3 of the principal Act, for the words "proceeds of crime and projecting", the words "proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming" shall be substituted.

4. Amendment of section 4. In section 4 of the principal Act, the words "which may extend to five lakh rupees" shall be omitted.

5. Amendment of section 5. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

(a) any person is in possession of any proceeds of crime; and

(b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed:

Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report or complaint has been made or filed under the corresponding law of any other country: (2 of 1974)

Provided further that, notwithstanding anything contained in clause (b), any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act.".

6. Amendment of section 8. In section 8 of the principal Act,—

(i) in sub-section (1), after the words and figure “section 5, or, seized”, the words “or frozen” shall be inserted;

(ii) in sub-section (3),—

(a) in the opening portion, for the words and figures “record seized under section 17 or section 18 and record a finding to that effect, such attachment or retention of the seized property”, the words and figures “record seized or frozen under section 17 or section 18 and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property” shall be substituted;

(b) in clause (a), for the words “scheduled offence before a court; and”, the words “offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and” shall be substituted;

(c) for clause (b), the following clause shall be substituted, namely:—

“(b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60 by the Adjudicating Authority”;

(iii) in sub-section (4), for the words “possession of the attached property”, the following shall be substituted, namely:—

“possession of the property attached under section 5 or frozen under sub-section (1A) of section 17, in such manner as may be prescribed:

Provided that if it is not practicable to take possession of a property frozen under sub-section (1A) of section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.”;

(iv) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

“(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money-laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.

(6) Where on conclusion of a trial under this Act, the Special Court finds that the offence of money-laundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.

(7) Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offence of money-laundering after having regard to the material before it.”.

7. Amendment of section 9. In section 9 of the principal Act,— (i) in the opening portion, for the words, brackets and figures “sub-section (6) of section 8”, the words, brackets, figures and letter “sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted;

(ii) in the first proviso,—

(a) for the words “Adjudicating Authority”, the words “Special Court or the Adjudicating Authority, as the case may be,” shall be substituted;

(b) after the words “or seized”, the words “or frozen” shall be inserted.

8. Amendment of section 10. In section 10 of the principal Act, in sub-section (2), for the words, brackets and figures “sub-section (6) of section 8”, the words, brackets, figures and letter “sub-section (5) or sub-section (6) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted.

9. Substitution of new section for section 12. For section 12 of the principal Act, the following section shall be substituted, namely:—

“12. Reporting entity to maintain records. (1) Every reporting entity shall—

(a) maintain a record of all transactions, including information relating to transactions covered under clause (b), in such manner as to enable it to reconstruct individual transactions;

(b) furnish to the Director within such time as may be prescribed, information relating to such transactions, whether attempted or executed, the nature and value of which may be prescribed;

(c) verify the identity of its clients in such manner and subject to such conditions, as may be prescribed;

(d) identify the beneficial owner, if any, of such of its clients, as may be prescribed;

(e) maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients.

(2) Every information maintained, furnished or verified, save as otherwise provided under any law for the time being in force, shall be kept confidential.

(3) The records referred to in clause (a) of sub-section (1) shall be maintained for a period of five years from the date of transaction between a client and the reporting entity.

(4) The records referred to in clause (e) of sub-section (1) shall be maintained for a period of five years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later.

(5) The Central Government may, by notification, exempt any reporting entity or class of reporting entities from any obligation under this Chapter.”.

10. Insertion of new section 12A. After section 12 of the principal Act, the following section shall be inserted, namely:—

“12A. Access to information. (1) The Director may call for from any reporting entity any of the records referred to in sub-section (1) of section 12 and any additional information as he considers necessary for the purposes of this Act.

(2) Every reporting entity shall furnish to the Director such information as may be required by him under sub-section (1) within such time and in such manner as he may specify.

(3) Save as otherwise provided under any law for the time being in force, every information sought by the Director under sub-section (1), shall be kept confidential.”.

11. Amendment of section 13. In section 13 of the principal Act,— (i) in sub-section (1), for the words, brackets and figures “call for records referred to in sub-section (1) of section 12 and may make such inquiry or cause such inquiry to be made, as he thinks fit”, the words “make such inquiry or cause such inquiry to be made, as he thinks fit to be necessary, with regard to the obligations of the reporting entity, under this Chapter” shall be substituted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If at any stage of inquiry or any other proceedings before him, the Director having regard to the nature and complexity of the case, is of the opinion that it is necessary to do so, he may direct the concerned reporting entity to get its records, as may be specified, audited by an accountant from amongst a panel of accountants, maintained by the Central Government for this purpose.

(1B) The expenses of, and incidental to, any audit under sub-section (1A) shall be borne by the Central Government.”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If the Director, in the course of any inquiry, finds that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may—

(a) issue a warning in writing; or

(b) direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or

(c) direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or

(d) by an order, impose a monetary penalty on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.”;

(iv) after sub-section (3), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purpose of this section, “accountant” shall mean a chartered accountant within the meaning of the Chartered Accountants Act, 1949.”. (38 of 1949.)

12. Substitution of new section for section 14. For section 14 of the principal Act, the following section shall be substituted, namely:—

“14. No. civil or criminal proceedings against reporting entity, its directors and employees in certain cases. Save as otherwise provided in section 13, the reporting entity, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.”.

13. Substitution of new section for section 15. For section 15 of the principal Act, the following section shall be substituted, namely:—

“15. Procedure and manner of furnishing information by reporting entities. The Central Government may, in consultation with the Reserve Bank of India, prescribe the procedure and the manner of maintaining and furnishing information by a reporting entity under sub-section (1) of section 12 for the purpose of implementing the provisions of this Act.”.

14. Amendment of section 17. In section 17 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (iii), after the word “money-laundering,”, the word “or” shall be inserted;

(b) after clause (iii), the following clause shall be inserted, namely:—

“(iv) is in possession of any property related to crime,”;

(c) in clause (d), after the words “such record or”, the words “property, if required or” shall be inserted;

(d) for the proviso, the following proviso shall be substituted, namely:—

“Provided that no search shall be conducted unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.”; (2 of 1974)

‘(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where it is not practicable to seize such record or property, the officer authorised under sub-section (1), may make an order to freeze such property whereupon the property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned:

Provided that if, at any time before its confiscation under sub-section (5) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60, it becomes practical to seize a frozen property, the officer authorised under subsection (1) may seize such property.”;

(iii) in sub-section (2), after the words, “immediately after search and seizure” the words “or upon issuance of a freezing order” shall be inserted;

(iv) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing served under sub-section (1A), before the Adjudicating Authority.”.

15. Amendment of section 18. In section 18 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no search of any person shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.”; (2 of 1974.)

16. Substitution of new sections for section 20 and section 21. For sections 20 and 21 of the principal Act, the following sections shall be substituted, namely:—

“20. Retention of property. (1) Where any property has been seized under section 17 or section 18 or frozen under sub-section (1A) of section 17 and the officer authorised by the Director in this behalf has, on the basis of material in his possession, reason

to believe (the reason for such belief to be recorded by him in writing) that such property is required to be retained for the purposes of adjudication under section 8, such property may, if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such property was seized or frozen, as the case may be.

(2) The officer authorised by the Director shall, immediately after he has passed an order for retention or continuation of freezing of the property for purposes of adjudication under section 8, forward a copy of the order along with the material in his possession, referred to in sub-section (1), to the Adjudicating Authority, in a sealed envelope, in the manner as may be prescribed and such Adjudicating Authority shall keep such order and material for such period as may be prescribed.

(3) On the expiry of the period specified in sub-section (1), the property shall be returned to the person from whom such property was seized or whose property was ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such property beyond the said period.

(4) The Adjudicating Authority, before authorising the retention or continuation of freezing of such property beyond the period specified in sub-section (1), shall satisfy himself that the property is *prima facie* involved in money-laundering and the property is required for the purposes of adjudication under section 8.

(5) After passing the order of confiscation under sub-section (5) or sub-section (7) of section 8, the Court or the Adjudicating Authority, as the case may be, shall direct the release of all property other than the property involved in money-laundering to the person from whom such property was seized or the persons entitled to receive it.

(6) Where an order releasing the property has been made by the Court under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60, the Director or any officer authorised by him in this behalf may withhold the release of any such property for a period of ninety days from the date of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Act.

21. Retention of records. (1) Where any records have been seized, under section 17 or section 18 or frozen under sub-section (1A) of section 17 and the Investigating Officer or any other officer authorised by the Director in this behalf has reason to believe that any of such records are required to be retained for any inquiry under this Act, such records may if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such records were seized or frozen, as the case may be.

(2) The person, from whom records seized or frozen, shall be entitled to obtain copies of records.

(3) On the expiry of the period specified under sub-section (1), the records shall be returned to the person from whom such records were seized or whose records were ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such records beyond the said period.

(4) The Adjudicating Authority, before authorising the retention or continuation of freezing of such records beyond the period specified in sub-section (1), shall satisfy himself that the records are required for the purposes of adjudication under section 8.

(5) After passing of an order of confiscation under sub-section (5) or sub-section (7) of section 8, the Adjudicating Authority shall direct the release of the records to the person from whom such records were seized.

(6) Where an order releasing the records has been made by the Court under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60, the Director or any other officer authorised by him in this behalf may withhold the release of any such record for a period of ninety days from the date of such order, if he is of the opinion that such record is relevant for the appeal proceedings under this Act.”.

17. Amendment of section 22. In section 22 of the principal Act, in sub-section (1), after the words “a survey or a search,”, the words “or where any record or property is produced by any person or has been resumed or seized from the custody or control of any person or has been frozen under this Act or under any other law for the time being in force,” shall be inserted.

18. Amendment of section 23. In section 23 of the principal Act, for the words and figure “under section 8, it shall, unless otherwise proved to the satisfaction of the Adjudicating Authority”, the words and figure “under section 8 or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court” shall be substituted.

19. Amendment of section 24. For section 24 of the principal Act, the following section shall be substituted, namely:—

“24. Burden of Proof. In any proceeding relating to proceeds of crime under this Act,—

(a) in the case of a person charged with the offence of money-laundering under section 3, the Authority or Court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and

(b) in the case of any other person the Authority or Court, may presume that such proceeds of crime are involved in money-laundering.”.

20. Amendment of section 26. In section 26 of the principal Act, in sub-section (2), for the words “banking company, financial institution or intermediary”, the words “reporting entity” shall be substituted.

21. Amendment of section 44. In section 44 of the principal Act, in sub-section (1),—

(i) for clause (a) the following clause shall be substituted, namely:—

“(a) an offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or”;

(ii) in clause (b), for the words “cognizance of the offence for which the accused is committed to it for trial”, the words and figure “cognizance of offence under section 3, without the accused being committed to it for trial” shall be substituted;

(iii) after clause (b), the following clauses shall be inserted, namely:—

“(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

(d) a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973, as it applies to a trial before a Court of Session.”. (2 of 1974.)

22. Amendment of section 50. In section 50 of the principal Act, in sub-section (1), in clause (b), for the words “banking company or a financial institution or a company”, the words “reporting entity” shall be substituted.

23. Amendment of section 54. In section 54 of the principal Act,—

(i) in the opening portion, for the word “officers”, the words “officers and others” shall be substituted;

(ii) for clause (d), the following clause shall be substituted, namely:—

“(d) members of the recognised stock exchange referred to in clause (f) of section 2 and the officers of the stock exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956; (42 of 1956).

(iii) after clause (h), the following clauses shall be inserted, namely:—

“(ha) officers of the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999; (41 of 1999).

(hb) officers of the Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952; (74 of 1952).

(hc) officers and members of the recognised association recognised under section 6 of the Forward Contracts (Regulation) Act, 1952; (74 of 1952).

(hd) officers of the Pension Fund Regulatory and Development Authority;

(he) officers of the Department of Posts in the Government of India;

(hf) Registrars or Sub-Registrars appointed by the State Governments under section 6 of the Registration Act, 1908; (16 of 1908).

(hg) registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; (59 of 1988).

(hh) officers and members of the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949; (38 of 1949)

(hi) officers and members of the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959; (23 of 1959).

(hj) officers and members of the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980;”; (56 of 1980).

(iv) in clause (j), for the words "banking companies", the words "reporting entities" shall be substituted.

24. Insertion of new sections 58A and 58B. After section 58, the following sections shall be inserted, namely:—

"58A. Special Court to release the property. Where on closure of the criminal case or conclusion of a trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the Special Court may, on an application moved by the concerned person or the Director, after notice to the other party, order release of such property to the person entitled to receive it.

58B. Letter of request of a contracting State or authority for confiscation or release the property. Where the trial under the corresponding law of any other country cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Central Government shall, on receipt of a letter of request from a court or authority in a contracting State requesting for confiscation or release of property, as the case may be, forward the same to the Director to move an application before the Special Court and upon such application the Special Court shall pass appropriate orders regarding confiscation or release of such property involved in the offence of money-laundering.".

25. Amendment of section 60. In section 60 of the principal Act,— (i) in sub-section (1), for the words and figures "property under section 5 or where an Adjudicating Authority has made an order confirming such attachment or confiscation of any property under section 8", the words, figures, brackets and letter "property under section 5 or for freezing under sub-section (1A) of section 17 or where an Adjudicating Authority has made an order relating to a property under section 8 or where a Special Court has made an order of confiscation relating to a property under sub-section (5) or sub section (6) of section 8" shall be substituted;

(ii) in sub-section (2),—

(a) for the words "attachment or confiscation", the words "attachment, seizure, freezing or confiscation" shall be substituted;

(b) for the word and figure "section 3", the words "a corresponding law" shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Where on closure of the criminal case or conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering under the corresponding law of that country has been committed, the Adjudicating Authority shall, on receipt of an application from the Director for execution of confiscation under sub-section (2), order, after giving notice to the affected persons, that such property involved in money-laundering or which has been used for commission of the offence of money-laundering stand confiscated to the Central Government.".

26. Amendment of section 63. In section 63 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Notwithstanding anything contained in clause (c) of sub-section (2), a person who intentionally disobeys any direction issued under section 50 shall also be liable to be proceeded against under section 174 of the Indian Penal Code.". (45 of 1860).

27. Substitution of new section for section 69. For section 69 of the principal Act, the following section shall be substituted, namely:—

"69. Recovery of fine or penalty. Where any fine or penalty imposed on any person under section 13 or section 63 is not paid within six months from the day of imposition of fine or penalty, the Director or any other officer authorised by him in this behalf may proceed to recover the amount from the said person in the same manner as prescribed in Schedule II of the Income-tax Act, 1961 for the recovery of arrears and he or any officer authorised by him in this behalf shall have all the powers of the Tax Recovery Officer mentioned in the said Schedule for the said purpose.". (43 of 1961).

28. Amendment of section 70. In section 70 of the principal Act, the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 2.*—For the removal of doubts, it is hereby clarified that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual.".

29. Amendment of section 73. In section 73 of the principal Act, in sub-section (2),—

(i) after clause (a), the following clause shall be inserted, namely:—

"(aa) the manner of provisional attachment of property under sub-section (1) of section 5";

(ii) after clause (e), the following clause shall be inserted, namely:—

"(ee) the manner of seizing or taking possession of property attached under section 5 or frozen under sub-section (1A) of section 17 or under sub-section (4) of section 8;"

(iii) clause (h) shall be omitted;

(iv) in clause (i), for the words "the time within which", the words "the nature and value of transactions and the time within which" shall be substituted;

(v) for clause (j), the following clauses shall be substituted, namely:—

"(j) the manner and the conditions in which identity of clients shall be verified by the reporting entities under clause (c) of sub-section (1) of section 12;

(jj) the manner of identifying beneficial owner, if any, from the clients by the reporting entities under clause (d) of sub-section (1) of section 12;

(jjj) the period of interval in which the reports are sent by the reporting entities or any of its employees under clause (c) of sub-section (2) of section 13;"

(vi) after clause (p), the following clause shall be inserted, namely:—

"(pp) the manner in which the forwarding of the order for retention or continuation of freezing of the property and the period of keeping such order and material under sub-section (2) of section 20;"

30. Amendment of the Schedule. In the Schedule to the principal Act,—

(i) for Part A, the following Part shall be substituted, namely:—

"PART A
PARAGRAPH 1
OFFENCES UNDER THE INDIAN PENAL CODE
(45 OF 1860)

Section	Description of offence
120B	Criminal conspiracy.
121	Waging or attempting to wage war or abetting waging of war, against the Government of India.
121A	Conspiracy to commit offences punishable by section 121 against the State.
255	Counterfeiting Government stamp.
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
302	Murder.
304	Punishment for culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
327	Voluntarily causing hurt to extort property, or to constrain to an illegal act.
329	Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
364A	Kidnapping for ransom, etc.
384 to 389	Offences relating to extortion.
392 to 402	Offences relating to robbery and dacoity.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving property stolen in the commission of a dacoity.

413	Habitually dealing in stolen property.
414	Assisting in concealment of stolen property.
417	Punishment for cheating.
418	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
419	Punishment for cheating by personation.
420	Cheating and dishonestly inducing delivery of property.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.
467	Forgery of valuable security, will, etc.
471	Using as genuine a forged document or electronic record.
472 and 473	Making or possessing counterfeit seal, etc., with intent to commit forgery.
475 and 476	Counterfeiting device or mark.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.
486	Selling goods marked with a counterfeit property mark.
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.
489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes.

PARAGRAPH 2

OFFENCES UNDER THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985 (61 OF 1985)

Section	Description of offence
15	Contravention in relation to poppy straw.
16	Contravention in relation to coca plant and coca leaves.
17	Contravention in relation to prepared opium.
18	Contravention in relation to opium poppy and opium.
19	Embezzlement of opium by cultivator.
20	Contravention in relation to cannabis plant and cannabis.
21	Contravention in relation to manufactured drugs and preparations.
22	Contravention in relation to psychotropic substances.
23	Illegal import into India, export from India to transhipment of narcotic drugs and psychotropic substances.
24	External dealings in narcotic drugs and psychotropic substances in contravention of section 12 of the Narcotics Drugs and Psychotropic Substances Act, 1985
25A	Contravention of orders made under section 9A of the Narcotic Drugs and Psychotropic Substances Act, 1985.

27A Financing illicit traffic and harbouring offenders.

29 Abetment and criminal conspiracy.

PARAGRAPH 3
OFFENCES UNDER THE EXPLOSIVE SUBSTANCES ACT, 1908
(6 OF 1908)

Section	Description of offence
3	Causing explosion likely to endanger life or property.
4	Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property.
5	Making or possessing explosives under suspicious circumstances.

PARAGRAPH 4
OFFENCES UNDER THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967
(37 OF 1967)

Section	Description of offence
10 read with section 3	Penalty for being member of an unlawful association, etc.
11 read with section 3	Penalty for dealing with funds of an unlawful association.
13 read with section 3	Punishment for unlawful activities.
16 read with section 15	Punishment for terrorist act.
16A	Punishment for making demands of radioactive substances, nuclear devices, etc.
17	Punishment for raising fund for terrorist act.
18	Punishment for conspiracy, etc.
18A	Punishment for organising of terrorist camps.
18B	Punishment for recruiting of any person or persons for terrorist act.
19	Punishment for harbouring, etc.
20	Punishment for being member of terrorist gang or organisation.
21	Punishment for holding proceeds of terrorism.
38	Offence relating to membership of a terrorist organisation.
39	Offence relating to support given to a terrorist organisation.
40	Offence of raising fund for a terrorist organisation.

PARAGRAPH 5
OFFENCES UNDER THE ARMS ACT, 1959
(54 OF 1959)

Section	Description of offence
25	To manufacture, sell, transfer, convert, repair or test or prove or expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition to contravention of section 5 of the Arms Act, 1959. To acquire, have in possession or carry any prohibited arms or prohibited ammunition in contravention of section 7 of the Arms Act, 1959.

Contravention of section 24A of the Arms Act, 1959 relating to prohibition as to possession of notified arms in disturbed areas, etc.

Contravention of section 24B of the Arms Act, 1959 relating to prohibition as to carrying of notified arms in or through public places in disturbed areas.

Other offences specified in section 25.

26 To do any act in contravention of any provisions of section 3, 4, 10 or section 12 of the Arms Act, 1959 in such manner as specified in sub-section (1) of section 26 of the said Act.

To do any act in contravention of any provisions of section 5, 6, 7 or section 11 of the Arms Act, 1959 in such manner as specified in sub-section (2) of section 26 of the said Act.

Other offences specified in section 26.

27 Use of arms or ammunition in contravention of section 5 or use of any arms or ammunition in contravention of section 7 of the Arms Act, 1959.

28 Use and possession of fire arms or imitation fire arms in certain cases.

29 Knowingly purchasing arms from unlicensed person or for delivering arms, etc., to person not entitled to possess the same.

30 Contravention of any condition of a licence or any provisions of the Arms Act, 1959 or any rule made thereunder.

PARAGRAPH 6

OFFENCES UNDER THE WILD LIFE (PROTECTION) ACT, 1972

(53 OF 1972)

Section	Description of offence
51 read with section 9	Hunting of wild animals.
51 read with section 17A	Contravention of provisions of section 17A relating to prohibition of picking, uprooting, etc., of specified plants.
51 read with section 39	Contravention of provisions of section 39 relating to wild animals, etc., to be Government property.
51 read with section 44	Contravention of provisions of section 44 relating to dealings in trophy and animal articles without licence prohibited.
51 read with section 48	Contravention of provisions of section 48 relating to purchase of animal, etc., by licensee.
51 read with section 49B	Contravention of provisions of section 49B relating to prohibition of dealings in trophies, animals articles, etc., derived from scheduled animals.

PARAGRAPH 7

OFFENCES UNDER THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

(104 OF 1956)

Section	Description of offence
5	Procuring, inducing or taking person for the sake of prostitution.

6 Detaining a person in premises where prostitution is carried on.

8 Seducing or soliciting for purpose of prostitution.

9 Seduction of a person in custody.

PARAGRAPH 8

OFFENCES UNDER THE PREVENTION OF CORRUPTION ACT, 1988

(49 OF 1988)

Section	Description of offence
7	Public servant taking gratification other than legal remuneration in respect of an official act.
8	Taking gratification in order, by corrupt or illegal means, to influence public servant.
9	Taking gratification for exercise of personal influence with public servant.
10	Abetment by public servant of offences defined in section 8 or section 9 of the Prevention of Corruption Act, 1988.
13	Criminal misconduct by a public servant.

PARAGRAPH 9

OFFENCES UNDER THE EXPLOSIVES ACT, 1884

(4 OF 1884)

Section	Description of offence
9B	Punishment for certain offences.
9C	Offences by companies.

PARAGRAPH 10

OFFENCES UNDER THE ANTIQUITIES AND ARTS TREASURES ACT, 1972

(52 OF 1972)

Section	Description of offence
25 read with section 3	Contravention of export trade in antiquities and art treasures.
28	Offences by companies.

PARAGRAPH 11

OFFENCES UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA

ACT, 1992

(15 OF 1992)

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial.
24	Acquisition of securities or control.

PARAGRAPH 12
OFFENCES UNDER THE CUSTOMS ACT, 1962
(52 OF 1962)

Section	Description of offence
135	Evasion of duty or prohibitions.

PARAGRAPH 13
OFFENCES UNDER THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976
(19 OF 1976)

Section	Description of offence
16	Punishment for enforcement of bonded labour.
18	Punishment for extracting bonded labour under the bonded labour system.
20	Abetment to be an offence.

PARAGRAPH 14
OFFENCES UNDER THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986
(61 OF 1986)

Section	Description of offence
14	Punishment for employment of any child to work in contravention of the provisions of section 3.

PARAGRAPH 15
OFFENCES UNDER THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994
(42 OF 1994)

Section	Description of offence
18	Punishment for removal of human organ without authority.
19	Punishment for commercial dealings in human organs.
20	Punishment for contravention of any other provisions of this Act.

PARAGRAPH 16
OFFENCES UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000
(56 OF 2000)

Section	Description of offence
23	Punishment for cruelty to juvenile or child.
24	Employment of juvenile or child for begging.
25	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.
26	Exploitation of juvenile or child employee.

PARAGRAPH 17**OFFENCES UNDER THE EMIGRATION ACT, 1983****(31 OF 1983)**

Section	Description of offence
24	Offences and penalties.

PARAGRAPH 18**OFFENCES UNDER THE PASSPORTS ACT, 1967****(15 OF 1967)**

Section	Description of offence
12	Offences and penalties.

PARAGRAPH 19**OFFENCES UNDER THE FOREIGNERS ACT, 1946****(31 OF 1946)**

Section	Description of offence
14	Penalty for contravention of provisions of the Act, etc.
14B	Penalty for using forged passport.
14C	Penalty for abetment.

PARAGRAPH 20**OFFENCES UNDER THE COPYRIGHT ACT, 1957****(14 OF 1957)**

Section	Description of offence
63	Offence of infringement of copyright or other rights conferred by this Act.
63A	Enhanced penalty on second and subsequent convictions.
63B	Knowing use of infringing copy of computer programme.
68A	Penalty for contravention of section 52A.

PARAGRAPH 21**OFFENCES UNDER THE TRADE MARKS ACT, 1999****(47 OF 1999)**

Section	Description of offence
103	Penalty for applying false trade marks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trade mark or false trade description is applied.
105	Enhanced penalty on second or subsequent conviction.
107	Penalty for falsely representing a trade mark as registered.
120	Punishment of abetment in India of acts done out of India.

PARAGRAPH 22**OFFENCES UNDER THE INFORMATION TECHNOLOGY ACT, 2000**
(21 OF 2000)

Section	Description of offence
72	Penalty for breach of confidentiality and privacy.
75	Act to apply for offence or contravention committed outside India.

PARAGRAPH 23**OFFENCES UNDER THE BIOLOGICAL DIVERSITY ACT, 2002**
(18 OF 2003)

Section	Description of offence
55 read with section 6.	Penalties for contravention of section 6, etc.

PARAGRAPH 24**OFFENCES UNDER THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001**
(53 OF 2001)

Section	Description of offence
70 read with section 68	Penalty for applying false denomination, etc.
71 read with section 68	Penalty for selling varieties to which false denomination is applied.
72 read with section 68	Penalty for falsely representing a variety as registered.
73 read with section 68	Penalty for subsequent offence.

PARAGRAPH 25**OFFENCES UNDER THE ENVIRONMENT PROTECTION ACT, 1986**
(29 OF 1986)

Section	Description of offence
15 read with section 7	Penalty for discharging environmental pollutants, etc., in excess of prescribed standards.
15 read with section 8	Penalty for handling hazardous substances without complying with procedural safeguards.

PARAGRAPH 26**OFFENCES UNDER THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974**
(6 OF 1974)

Section	Description of offence
41(2)	Penalty for pollution of stream or well.
43	Penalty for contravention of provisions of section 24.

PARAGRAPH 27**OFFENCES UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981**
(14 OF 1981)

Section	Description of offence
37	Failure to comply with the provisions for operating industrial plant.

PARAGRAPH 28**OFFENCES UNDER THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF MARITIME NAVIGATION AND FIXED PLATFORMS ON CONTINENTAL SHELF ACT, 2002**
(69 OF 2002)

Section	Description of offence
3	Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc.";
	(ii) in Part B, paragraphs 1 to 25 shall be omitted;
	(iii) in Part C, serial number (2) and the entries relating thereto shall be omitted.

P.K. MALHOTRA,

Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಅಂದಿನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿರ್ಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 35**S.C. 20**